

BILL NO. R-76-10-26

RESOLUTION NO. R-

83-76

A RESOLUTION authorizing the issuance and sale of \$1,500,000 Economic Development Revenue Bonds (Hanover Columbus, II., Inc. (Kroger Project) of the City of Fort Wayne, Indiana, for the purpose of defraying the cost of acquiring facilities, authorizing the execution of the necessary instruments, providing for the pledge of revenues for the payment of said bonds, authorizing a mortgage and indenture of trust appropriate for the protection and disposition of such revenues, and authorizing the sale of said bonds.

WHEREAS, the City of Fort Wayne, Indiana (hereinafter called the "City") is a municipal corporation and political subdivision of the State of Indiana and by virtue of IC 1971, 18-6-4.5-1 through 18-6-4.5-29, inclusive, as amended (hereinafter called the "Act") is authorized and empower to acquire economic development facilities as those words are defined in the Act and to make such facilities available to others to overcome insufficient employment opportunities and insufficient diversification of industry in and near the City to promote the general economic welfare of the area in and near the City and to issue its economic development revenue bonds to pay all costs of purchase or construction of such economic development facilities including engineering, legal fees, and all other expenses related thereto during construction, including the costs of issuing the bonds and to secure said bonds by a trust indenture creating a security interest in such economic development facilities; and

WHEREAS, Hanover Columbus, II., Inc. (Kroger Project) (the "Corporation") is a corporation duly organized under the laws of the State of Illinois; and

WHEREAS, the Corporation has agreed to construct economic development facilities and thereby create new employment opportunities and provide diversification of industry in and near the area of the City and to pay the principal of and interest and premium on the economic development revenue bonds hereinafter authorized; and

WHEREAS, the Common Council of the City (the "Common Council") has heretofore by Special Ordinance No. S-19-72 and pursuant to IC 1971, 18-6-4.5-1 through 18-6-4.5-29, inclusive, created the Fort Wayne Economic Development Commission which by virtue of the Act has become the Fort Wayne Economic Development Commission (the "Commission") and the members of the Commission have been duly appointed and qualified pursuant to law and the Commission has organized and undertaken the duties imposed upon it by the Act and has found by written resolution that because of existing insufficient employment opportunities and insufficient diversification of industry, the economic

APPROVED AS TO FORM
AND LEGALITY,

CITY ATTORNEY

1
2 the economic welfare of the City would be benefited by the
3 financing of the construction of economic development facilities
4 by the Corporation; and

5 WHEREAS, the Commission has by such resolution approved
6 a Report estimating the public services which would be made
7 necessary or desirable, the expense thereof, the number of jobs,
8 economic development facilities and the cost of construction
9 of the economic development facilities and has submitted such
10 report to the City Plan Commission and the Fort Wayne Community
11 Schools; and

12 WHEREAS, said Plan Commission and Fort Wayne Community
13 Schools, upon receiving the report of the Commission, has
14 formulated written comments concerning such estimate and have
15 transmitted those comments to the Commission within the time
16 provided by law; and

17 WHEREAS, after giving notice in accordance with the
18 Act, the Commission held a public hearing on the proposed
19 financing and adopted a resolution finding the proposed financing
20 complies with the Act, approving the financing and approving
21 the form and terms of the economic development revenue bonds
22 proposed to be issued by the City to pay a portion of the cost
23 of such facilities, the Lease Agreement and Indenture, which
24 resolution and other instruments and information pertaining to
25 the proposed financing have been transmitted to the Common
26 Council of the City by the Secretary of the Commission.

27 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL
28 OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

29 SECTION 1. Public Benefits. The Common Council
30 of the City hereby finds and determines that the facilities
31 in connection with the project ("the Project") to be acquired
32 in part with the proceeds of the Economic Development Revenue
33 Bonds (Hanover Columbus, II., Inc. Kroger Project) herein
34 authorized are "economic development facilities" as the phrase
35 is used in the Act and that the utilization of the property
36 in the creation and location of the Project is economically
37 sound will increase employment opportunities and increase
38 diversification of industry in and near the City, will improve
39 and promote the economic stability, development and welfare
40 of the area in and near the City and the location of the other
41 new industries in such area.

42 SECTION 2. Findings. The Common Council hereby
43 finds that this resolution (the "Bond Resolution") is of public
44 benefit to the economic welfare of the City, by tending to
45 overcome the deficiencies previously found to exist, to-wit:
46 insufficient employment opportunities and insufficient diversi-
47 fication of industry and recreational facilities, and that such
48 benefit is greater than the cost of public facilities (as the
49 phrase is defined in the Act), which will be required by the
50 Project.

51 SECTION 3. Authorization of \$1,500,000 Economic
52 Development Revenue Bonds. In order to pay a portion of the
53 costs of acquiring the Project, there are hereby authorized to
54 be issued, sold and delivered the \$1,500,000 aggregate principal
55 amount Economic Development Revenue Bonds Hanover Columbus, II.,
56 Inc. Kroger Project of the City. It is hereby recognized that

pursuant to the terms of the Lease Agreement, the balance of the proceeds of additional parity bonds (the "Additional Bonds") as identified in the Indenture.

SECTION 4. Definitions. In addition to the words and terms defined in this Bond Resolution, the words and terms used in this Bond Resolution shall have the meanings set forth in the Indenture, the Lease Agreement and unless the context or use indicates another or different meaning or intent and the form of the Bond and the form of the Lease Agreement and Indenture, which forms are before this meeting are hereby incorporated by reference in this Bond Resolution and the Clerk is hereby directed to insert them into the minutes of the common council to keep them on file.

SECTION 5. Terms for the Bond. The total principal amount of Bond that may be issued is hereby expressly limited to \$1,500,000, provided, however, that additional bonds may be issued as hereinafter provided.

The bond shall be subject to redemption prior to maturity upon the terms and as provided in the Indenture.

The bond shall be executed on behalf of the City with the official manual or facsimile signature of the Mayor and attested with the official manual or facsimile signature of the Clerk and shall have impressed or imprinted thereon the corporate seal of the City. The coupons attached to the Bond, if any, shall be executed by the facsimile of the official signatures of the Mayor and Clerk and such facsimile on any Bond or coupons shall have the same force and effect as if manually signed by such officer. The Bond, together with interest thereon, shall be limited obligations of the City payable solely from the revenues and other amounts derived from the Project (except to the extent paid out of moneys attributable to the Bond proceeds or the income from the temporary investment thereof and under certain circumstances, proceeds from insurance and condemnation awards) and shall be a valid claim of the respective holders thereof only against the Bond fund created under the Indenture and other moneys held by the Trustee and of the Project (but in addition shall be secured by a first mortgage lien on the Project), which revenues and other amounts shall be pledged and secured under the Indenture for the equal and ratable payment of the Bond and shall be used for no other purpose than to pay the principal of, premium, if any, and the interest on the Bond, except as may be otherwise expressly authorized in the Indenture. The Bond and the interest thereon shall never constitute a charge against the general credit or taxing power of the City. In case any officer whose signature or facsimile of whose signature shall appear on the bond or coupons shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

SECTION 6. Additional Bonds. The City may authorize the issuance of Additional Bonds upon the terms and conditions provided the same rank as the Bond, but shall bear such date or dates, bear such interest rate or rates, have such maturity dates, redemption dates and redemption premiums, and be issued at such prices as shall be approved in writing by the City and the Company.

SECTION 7. Sale of the Bond. The Mayor and Clerk of the City are hereby authorized and directed to sell the Bond. The Mayor is hereby authorized to execute and the Clerk is hereby authorized to attest, the Underwriting Agreement in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form of such instrument submitted to this Common Council approved hereby, and identified herein as the Underwriting Agreement, and to keep the same on file.

SECTION 8. Indenture. In order to secure the payment of the principal of and interest on the Bond, the Mayor and Clerk shall execute, acknowledge and deliver in the name on behalf of the City, a Mortgage and Indenture of Trust, herein identified as and called the Indenture, in the form submitted to this Common Council, which is hereby approved in all respects and the Clerk is hereby directed to insert a copy thereof in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon and the same is the form of Indenture so submitted to this Common Council and approved by this Bond Resolution and identified herein as the Indenture and to keep such Indenture on file. Said Indenture contains provisions authorized and permitted by the Act, and this Bond Resolution shall constitute a part hereof as therein provided and for all purposes of said Indenture, including the provisions thereof relating to amendments and the severability of provisions of the Indenture.

SECTION 9. General. The Mayor and Clerk be and they are each hereby authorized and directed, in the name of and on behalf of the City to execute any and all instruments, perform any and all acts, approve any of them, to be necessary or desirable in order to carry out the purposes of this Bond Resolution (including the preambles hereto), the acquisition of the Project by the Company, the issuance and sale of the Bond and the securing of the Bond under the Indenture.

All documents before this meeting, including the Indenture and the Lease Agreement are subject to completion in conformity with this Bond Resolution. The Mayor and the Clerk, and each of them is hereby authorized to execute and deliver said Indenture and Lease Agreement in substantially the form of said documents before this Common Council, on behalf of the City, with such changes therein as such officials with the advice of counsel may determine, as conclusively evidenced by his execution thereof, to be advisable and in the best interests of the City and in conformance with the Bond Resolution.

SECTION 10. Prior Proceedings. All action taken by the Commission in connection with the Project is, to the extent not inconsistent with the Bond Resolution, ratified and confirmed and incorporated herein.

SECTION 11. Recognition of New Legislation. It is hereby recognized that pursuant to Senate Enrolled Act No. 325, the Act became effective upon its approval by the Governor on April 23, 1973, and that pursuant to Section 3 of said Act No. 325, the Commission created by Special Ordinance No. S-19-72 of the City continues with the powers and duties of a "development commission" under the Act.

SECTION 12. Effective Date. This Bond Resolution shall be in full force and effect immediately upon its adoption by the Common Council and approval by the Mayor.


Councilman

Read the first time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 10-12-76

Charles W. Welterman
CITY CLERK

Read the third time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, placed on its passage.

PASSED ~~(lost)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>7</u>	<u>1</u>		<u>1</u>	
BURNS	<u>✓</u>				
HINGA	<u>✓</u>				
HUNTER	<u>✓</u>	<u>✓</u>			
MOSES	<u>✓</u>				
NUCKOLS				<u>A</u>	
SCHMIDT, D.	<u>✓</u>				
SCHIMDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 10-26-76

Charles W. Welterman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~)

ORDINANCE (RESOLUTION) No. 3-83-76 on the 26th day of Oct., 1976.

ATTEST:

(SEAL)

Charles W. Welterman
CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of Oct., 1976, at the hour of 11:00 o'clock A. M., E.S.T.

Charles W. Welterman
CITY CLERK

Approved and signed by me this 29th day of October, 1976, at the hour of 6:00 o'clock P. M., E.S.T.

Robert Elmschong
MAYOR

Bill No. R-76-10-26

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance authorizing the issuance and sale of \$1,500,000 Economic Development Revenue Bonds (Hanover Columbus, II., Inc. (Kroger Project) of the City of Fort Wayne, Indiana, for the purpose of defraying the cost of acquiring facilities, authorizing the execution of the necessary instruments, providing for the pledge of revenues for the payment of said bonds, authorizing a mortgage and indenture of trust appropriate for the protection and disposition of such revenues, and authorizing the sale of said bonds.

have had said Ordinance under consideration and beg leave to report back to the Common

Council that said Ordinance PASS PASS.

Vivian G. Schmidt - Chairman

William T. Hinga - Vice-Chairman

Winfield C. Moses, Jr.

John Nuckols

Samuel J. Talarico

Vivian G. Schmidt
William T. Hinga
Winfield C. Moses, Jr.

10-26-76 CONCURRED IN
DATE _____ CHARLES W. WESTERMAN, CITY CLERK

Resolution Authorizing the City of Fort Wayne to Issue Its

TITLE OF ORDINANCE

"Economic Development First Mortgage Revenue Bonds"

~~(Hanover Columbus, II., Inc. Kroger Project)~~

DEPARTMENT REQUESTING ORDINANCE

Economic Development Commission

SYNOPSIS OF ORDINANCE

Resolution will authorize City of Fort Wayne to issue its

R-7610-26

Economic Development First Mortgage Revenue Bonds (Hanover Columbus, II.

Inc. Kroger Project) in the amount of \$1,500,000.00 for the purpose of

procuring funds to pay the costs of acquisition, construction, and equipping

of economic development facilities and for lease of same to Hanover Columbus,

II., Inc. Kroger Project.

EFFECT OF PASSAGE

will authorize financing of economic development

facilities.

EFFECT OF NON-PASSAGE

economic development facilities will not be financed.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

no costs to or

expenditures by the City of Fort Wayne

ASSIGNED TO COMMITTEE

Finance Jett